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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 09/582,122 | 06/22/2000 | ERNST ACH | 4781-42PUS | 8151 |
| 7590 | 03/09/2004 | | EXAMINER | |
| KLAUS P STOFFEL, ESQ OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 10036-8403 | | | MCALLISTER, STEVEN B | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3627 | |

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|--------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/582,122 | ACH, ERNST |
| Examiner | Art Unit | |
| Steven B. McAllister | 3627 | M.G. |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 8-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 8-21 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 27.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claim 21 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 21 recites that the weight of the engine is symmetrically loaded between the guides, but as read by the examiner, . the drawings show and the specification states that the engine is located off center. .The original specification, claims and drawings do not appear to show this limitation in such a way as to convey that the inventor was in possession of this element

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 8, 10, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshikawa in view of Hein (5944144).

Yoshikawa shows first parallel guides 15c comprising planar vertical flat beams which engage with the elevator car; and second and separate parallel guides 15d comprising a second set of vertical flat beams which engage with the counterweight; the

sets of parallel guides being in parallel vertical planes which are separated and spaced apart by a element 15b; a cage 5 movable on the first guides (Figs. 2, 3); a counterweight 9 movable on the second guides; an engine mount 21 fastened on top of the first and second guides (Fig. 3); and a drive on the mount. It is noted that Yoshikawa shows that the weight force of the drive, cage and counterweight are conducted to the floor exclusively through the guides (pg. 5, marked passage). Yoshikawa does not show that the first and second guides are discontinuously connected. Hein shows first and second guides connected vertically and horizontally discontinuously via connectors 34. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Yoshikawa by separate guides discontinuously joined as taught by Hein in order to facilitate maintenance (e.g., if a length of second guide is damaged, it can be replaced without replacing the first guide.)

Claims 11, 12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshikawa in view of Hein as applied to claim 8 above, and further in view of Lane (5845745).

Yoshikawa in view of Hein shows all elements of the claim except a cable routed to an under side of the cage. Lane shows a cable connected to a connecting point 60 at the bottom of the elevator cage (see Fig. 1). It would have been obvious to one of ordinary skill in the art to further modify the apparatus of Yoshikawa by routing the cable to the bottom of the elevator in order to minimize any angle error in the cable due to the longer length between the motor and the tie point.

As to claim 12, it is noted that Lane shows means for connecting the engine mount to the guides in a vibration-damped manner comprising damping material (35, 44 of Lane).

As to claim 15, it is noted that Yoshikawa in view of Hein and Lane shows a fastening bracket (32 of Lane) that forms a butt joint connection with the guide rails of the cage.

Claims 9, 12-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshikawa in view of Hein as applied to claim 8 above, and further in view of Loiodice.

Yoshikawa in view of Hein shows all elements of the claim except the guides extending beyond the engine mount. Loiodice shows that the guide rails extend beyond engine mount 62 (see Fig. 6 and col. 4, lines 28-34). It would have been obvious to one of ordinary skill in the art to further modify the apparatus of Yoshikawa by extending the guides as taught by Loiodice in order to allow securing of the rails at their ends.

As to claim 12, Yoshikawa in view of Hein and Loiodice show all elements of the claim except mounting in a vibration damping manner. However, it old and well known in the art to mount engine brackets with vibration damping material. It would have been obvious to one of ordinary skill in the art to further modify the apparatus of Yoshikawa by mounting the motor bracket in a vibration-damping manner in order to prevent vibrations from being transmitted to the car and the building.

As to claim 13, it is noted that Loiodice shows end plates 64 for fastening to the guide rails 60 and an engine bearer 62. It does not specifically disclose the connection

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between the bearer and the end plates. However, it is old and well known in the art to connect such pieces by welding, a non-detachable joining method. It would have been obvious to one of ordinary skill in the art to further modify the apparatus of Yoshikawa by welding the joints in order to provide a strong and rigid joining method.

As to claims 14 and 15, it is noted that Loiodice shows that end plates form a butt joint with the guide rails of the cage (see Fig. 6 and col. 4, lines 28-34).

As to claims 16 and 17, it is noted that Yoshikawa in view of Hein and Loiodice shows guides with mutually facing inner sides and mutually opposing outer sides, with the engine mount being mounted on the mutually opposed outer sides via the end plates.

As to claim 19, it is noted that Yoshikawa shows upper and lower guide shoes 16, 17 spaced apart to allow at least one of the counter weight and the drive engine to pass the elevator car.

Response to Arguments

Applicant's arguments filed 11/5/03 have been fully considered but they are not persuasive.

The applicant argues that the present claims define over Yoshikawa in view of Hein because Hein is connected to the wall. It is noted that the present invention is connected to the wall as well (see for instance Fig. 3). However, mere connection to the wall by brackets does not necessarily interfere with the exclusive transmission of

vertical forces through the guides. Generally, elevator brackets allow the rails to slide along the axis of the guides in order to compensate for thermal contraction (although silent on the topic, it was assumed that the brackets used in the present invention are of this type). Further, the examiner did not rely on Hein for a teaching of attaching the guides to the wall. Rather, Hein simply teaches the horizontally and discontinuous guides.

The applicant argues that the combination is improper because it is not suitable for larger elevators. Assuming, *in arguendo*, this to be true, the limitation is not claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SB McAllister
Steven B. McAllister